APPENDIX—C.

Special subjects placed before the Representative Assembly on the 27th June 1923.

1. Amendment of the Legal Practitioners Regulation prohibiting legal practitioners from entering into any trade or other business.

Note placed by the Government before the Assembly.—

The Chief Court have brought to the notice of Government that the Legal Practitioners Regulation as in force in Mysore does not expressly prohibit legal practitioners from entering into any trade or other business. It is apprehended, however, that a legal practitioner cannot in most cases do his work to the satisfaction of his clients if he be busy with another trade or business at the same time.

The principle that a member of the legal profession should not carry on any other profession during his practice appears to be fairly well established. There is a resolution of the General Council of the Bar in England to this effect. Under the Legal Practitioners Act in force in British India, the High Courts may frame rules as to the suspension and dismissal of pleaders and under this power the Madras High Court has framed rules prohibiting Vakils and Pleadars from carrying on any trade or business without the previous sanction of the High Court.

In Mysore, there is no provision to frame rules in this behalf. It may be possible to treat such cases as falling under clause (*f*) to Section 13 of the Legal Practitioners Regulation; but this would entail proof that the interests of the client had actually suffered. With a view to obviate doubts, the Chief Court propose, by amending the Regulation, to take power to lay down conditions on which legal practitioners can be permitted to continue their practice after admission.

Summary of Discussion.—It was urged that before any legislation was undertaken, necessity for it must be shown. In the note circulated, no weighty arguments were to be found for the adoption of the measure except perhaps the apprehension that a subsidiary occupation might clash with the interests of the client. No specific instances or compliants are forthcoming to substantiate these fears. Once a lawyer evinced any indifference towards the interests of his client or clients, the latter would surely forsake him for a better man. The existing law provides sufficient safeguards in addition. It cannot be denied that lawyers are an intelligent class and are doing much for the advancement of the country, perhaps more so than others. They are found in the Representative Assembly and the Legislative Council, in local bodies and co-operative societies, and on the directoraters of Banks and other large concerns. In spite of these activities in various directions, they are attending to their professional work very well. There is certainly no need to imitate Madras or any other place, where any such measure may exist. Legal profession ought to be independent. There is reason to fear that the adoption of the legislation proposed will seriously hamper this independence which is already on the wane unfortunately.

Two of the members, however, were strongly in favour of the measure, as in their experience extending over a number of years, the indifference of lawyers was ruinous to the interests of their clients. The lawyers very often did not care to take instructions, and did not consequently present the cases properly except perhaps when the clients were influential or paid handsomely. By prohibiting them from taking up other avocations, the principle enforced in the case of Government servants was sought to be applied in their case. Public opinion is surely in favour of the measure, and it is the lawyers alone that offer any opposition.

At this stage, one of the members wanted to know the reasons that prompted the Government to bring forward the measure and the exact significance of the word "business." The Second Member of Council pointed out that "business" was a well known term implying commercial undertakings for profit, and does not contemplate the activities of lawyers in local bodies, co-operative Societies and other honorary work. Cultivation of one's own lands and working on the directorate of Banks is not "business." As to the reasons, it was stated that in several appeals before the Chief Court, the lawyers concerned had not studied their cases and the points of law involved and the presentation of the case had often been prejudicial to the clients. It is expected that the contemplated legislation would improve matters. The practice existed in Madras and there ought to be no reasonable difficulty in obtaining permission of the Chief Court, where a lawyer wanted to engage himself otherwise.

It was again strongly urged that looking at the times and conditions in Mysore, it was a matter of necessity in the case of many lawyers, particularly junior ones to supplement their income in a legitimate way by subsidiary occupations. The contemplated measure would compel them to take to subterfuges and dishonesty. Members of the Bar usually did their professional work satisfactorily in spite of other occupations. Even in Madras, there was no such restriction in the case of Barristers and Advocates. In England, lawyers were members of Parliament and also business men. Any attempt which seeks to interfere with, or results in the encroachment upon, the independence of the profession is unwelcome and must be deprecated. The real grievance is not that "business" interferes with professional work, but that lawyers frequently have a number of cases in different courts on the same day, and cannot therefore attend to each case in person, but have to request friends or juniors to conduct them. The client's dissatisfaction arises out of this, and it is possible that in rare instances, the cases may not be properly handled by the juniors or others.

The proposition was then put to vote, and carried, 58 voting for and 49 against.

Even after polling, it was urged that any regulation on the subject, before being passed into law, may be published in the *Gazette*, and public comment and opinion invited on it.

2. Amendment of the Minor Tank Restoration Regulation.

Note placed by the Government before the Assembly.—

Under the Minor Tank Restoration Scheme adopted in the year 1887, tanks yielding a revenue of Rs. 300 and under are classed as minor tanks and, with a view to facilitate their restoration, the Government undertook to do stone and masonry work, provided the earth-work was done by the raiyats. In 1914, in order to accelerate progress under the scheme, it was ordered that the raiyats' responsibilities may be reduced to contributing one-third of the total cost of restoration including earthwork and stone and masonry work, the other two-thirds being met by Government.

2. The Minor Tank Restoration Regulation, XIII of 1916, passed in December 1916, provides for the recovery of the raiyats' share of the cost of restoration or improvement of minor tank compulsorily as an arrear of land revenue, when the holders of not less than two-thirds of the irrigable area have agreed to bear the raiyats' share (one-third) of the cost.

3. In spite of these measures, the progress in the restoration of minor tanks has been very slow and the results obtained so far have been extremely disappointing. The principal cause of failure seems to be that, while the Government have been enthusiastic to perform their share of the task, there has been no equal response on the part of the cultivators. Two Committees of the Representative Assembly appointed in the years 1918 and 1919 examined the existing rules and submitted reports containing certain useful suggestions. One of these is that, as it is hard for the raiyats of the maidan taluks to pay one-third of the estimated cost of the restoration, they may be made responsible for the amount required for the earthwork and turfing only or that the proportion of their contribution may

be reduced to one-fourth and recovered compulsorily. This recommendation was also supported by the Central Board of Irrigation to which the question was subsequently referred by Government.

4. There are still 14,000 tanks awaiting restoration and if these are to be brought up to standard within any reasonable time, the levy of contributions from raiyats should either be abolished or should be made compulsory. As the former course would impose a serious burden on the resources of the State, the only alternative left is to levy contribution compulsorily from the raiyats. The compulsory levy of contribution has been advocated by the Committee of the Representative Assembly and the opinion of the General Body of Members at the April Session of the Assembly in 1919 was also mainly in favour of this principle. It is therefore proposed to undertake legislation to levy the raiyats' contribution compulsorily irrespective of the consent of the holders of two-thirds of the irrigable area as now provided under Minor Tank Restoration Regulation and at the same time to reduce the raiyats' responsibility from one-third to one-fourth of the total cost.

5. The main provisions of the proposed legislation are as follows :—

When the Government consider it necessary to take up the restoration of any existing minor tank, an estimate thereof shall be prepared and exhibited in the Taluk Office and in the Chavadi of the village concerned. It will be open to the holders of the irrigable lands under the tank to prefer their objections to the project within one month, before the Deputy Commissioner of the district. The Deputy Commissioner will after hearing the objections decide whether the work should be abandoned or proceeded with notwithstanding the objections thereto. An appeal will lie against the Deputy Commissioner to the Revenue Commissioner whose decision will be final. If no objections are raised to such restoration or if the objections raised have been over ruled, an estimate for the work may be sanctioned by the Government or by the officer to whom Government delegate their powers in this behalf and the work proceeded with. One-fourth of the total cost of such restoration shall be recovered from the raiyats holding lands under the tank *pro-rata* in not less than 5 and not more than 10 annual instalments along with the wet assessment, commencing from the year after the completion of the work. The amounts due shall be recoverable as arrears of land revenue.

6. The opinion of the Representative Assembly is invited on the proposed legislation.

(*Note.*—Before the subject was discussed, the Revenue Secretary to Government explained the note in Kannada.)

Summary of Discussion.—At the very start it was suggested by some members that no discussion was necessary and that the proposition may be put to the vote. Some points were, however, raised by some members. It was suggested that the discretion proposed in the matter of instalments 1 namely 5 to 10 annual instalments, may be dropped and 10 annual instalments fixed for all cases, as the discretion, apart from its being not properly exercised, afforded room for partiality and corruption. It was also suggested that no interest may be charged on the contribution, as in the case of loans. The Chief Secretary to Government pointed out that this was not a loan and that no interest would be charged, and that the Regulation would not provide for it.

Great stress was laid by many members to include the Inams under the scheme. Minor tanks in Inam villages required as much restoration as tanks elsewhere, and the Inamdar may pay $\frac{3}{4}$ths the cost, the remaining $\frac{1}{4}$th being paid by the raiyats. It was pointed out that the Regulation did not contemplate Inam lands; whereupon it was urged that Inam lands might also be included, or if that was not possible, a similar measure for Inam villages might be taken up at once.

The proposition was put to the vote and carried unanimously.